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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

ESVIN FERNANDO ARREDONDO  
RODRIGUEZ, an individual AND A.F.A.J.,  
a minor, BY HER GUARDIAN *AD LITEM*,  
JEFFREY HAMILTON,

Plaintiffs,

v.

UNITED STATES OF AMERICA,  
Defendant.

Case No.: CV 22-02845-JLS-JC

**PLAINTIFFS' AMENDED  
MOTION TO EXCLUDE  
TESTIMONY AND REPORT OF  
PROPOSED EXPERT JUNE  
HAGEN [*DAUBERT*]**

**Hearing Date:** March 29, 2024

**Hearing Time:** 10:30 a.m.

**Judge:** Hon. Josephine L. Staton

**Place:** 8A

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Defendant has proposed to offer rebuttal testimony from June Hagen (“Dr. Hagen”) in response to the employability assessments conducted by Plaintiffs’ vocational expert Mark Lieberman (“Mr. Lieberman”). Dr. Hagen’s testimony should be excluded from this case for two reasons. First, Dr. Hagen did not adequately prepare herself prior to writing her Rebuttal Reports (defined below), in failing to review relevant, available evidence. Thus, Dr. Hagen’s conclusions are not sufficiently supported by facts and data. Second, Dr. Hagen fails to show that she properly applied her professional experience or reliable principles or methods to reach her opinions in this case. The Rebuttal Reports contain only a single citation to authority from Dr. Hagen’s field of expertise and do not include any references to defined methods or principles. In her deposition, Dr. Hagen admitted that she did not rely on methods or principles at all. Moreover, after reviewing documents Defendant’s counsel had selected and sent her, Dr. Hagen relied solely upon the evidence that favored the Defendant, failing to engage with the evidence that opposed Defendant’s position. Such cherry-picking is routinely rejected by courts and further justifies excluding Dr. Hagen’s conclusions.<sup>1</sup>

### II. LEGAL STANDARD

Under Federal Rule of Evidence 702 (“Rule 702”), expert opinion is admissible if:

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<sup>1</sup> When *Plaintiffs’ Motion to Exclude Testimony and Report of Proposed Expert June Hagen* was originally filed on February 23, 2024 (Dkt. 146), Plaintiffs had not received a copy of the transcript of the deposition of Dr. Hagen from the court reporter. Plaintiffs have since received the transcript of Dr. Hagen’s deposition, excerpted portions of which are attached to the *Second Declaration of Linda Dakin-Grimm* as Exhibit A. *Plaintiffs’ Amended Motion* hereinafter includes citations to Dr. Hagen’s deposition transcript.

1 (1) the witness is sufficiently qualified as an expert by knowledge, skill,  
2 experience, training, or education; (2) the scientific, technical, or other  
3 specialized knowledge will help the trier of fact to understand the  
4 evidence or to determine a fact in issue; (3) the testimony is based on  
5 sufficient facts or data; (4) the testimony is the product of reliable  
6 principles and methods; and (5) the expert has reliably applied the  
7 relevant principles and methods to the facts of the case.

8 Fed. R. Evid. 702. To determine whether an expert is sufficiently qualified, a court  
9 must examine whether the expert's qualifications and experiences are "relevant to  
10 the determination of the facts in issue." *In re Canvas Specialty, Inc.*, 261 B.R. 12,  
11 19 (C.D. Cal. 2001).

12 Once an expert is found to be qualified, a trial court must ensure that the  
13 testimony of the expert "both rests on a *reliable* foundation and is *relevant* to the  
14 task at hand." *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 579-80 (1993)  
15 (emphasis added). Testimony rests on a "reliable foundation" if it is rooted "in the  
16 knowledge and experience of the relevant discipline" while "testimony is relevant if  
17 the knowledge underlying it has a valid connection to the pertinent inquiry." *City of*  
18 *Pomona v. SQM N. Am. Corp.*, 750 F.3d 1036, 1043-44 (9th Cir. 2014) (citation and  
19 internal quotation marks omitted).

20 A court's primary concern is "the soundness of [the expert's] methodology."  
21 *Estate of Barabin v. AstenJohnson, Inc.*, 740 F.3d 457, 463 (9th Cir. 2014) (citation  
22 and internal quotation marks omitted). When assessing scientific expert opinion, a  
23 court may consider factors, such as "(1) whether the scientific theory or technique  
24 can be (and has been) tested, (2) whether the theory or technique has been subjected  
25 to peer review and publication, (3) whether there is a known or potential error rate,  
26 and (4) whether the theory or technique is generally accepted in the relevant  
27 scientific community." *United States v. Sandoval-Mendoza*, 472 F.3d 645, 655 (9th

1 Cir. 2006) (citation and internal quotation marks omitted). These factors are not  
2 exhaustive, and a court may use its discretion “to decide how to test an expert’s  
3 reliability as well as whether the testimony is reliable, based on the particular  
4 circumstances of the particular case.” *Primiano v. Cook*, 598 F.3d 558, 564 (9th Cir.  
5 2010) (citation and internal quotation marks omitted).

6 Additionally, Federal Rule of Civil Procedure 26 governs parties’ disclosure  
7 obligations and outlines the requirements for a written report by a witness retained  
8 to provide expert testimony. Among other requirements, such a report must contain:  
9 “(i) a complete statement of all opinions the witness will express and the basis and  
10 reasons for them; (ii) the facts or data considered by the witness in forming them;  
11 [and] (iii) any exhibits that will be used to summarize or support them[.]” Fed. R.  
12 Civ. P. 26(a)(2)(B)(i)-(iii). “Th[is] duty to disclose is broad.” *United States v.*  
13 *Bazaarvoice, Inc.*, 13-00133, 2013 WL 3784240, at \*2 (N.D. Cal. July 18, 2013). In  
14 particular, “‘facts or data’ as used in Rule 26(a)(2)(B)(ii) is to ‘be interpreted  
15 broadly to require disclosure of any material considered by the expert, from  
16 whatever source, that contains factual ingredients.’” *Santa Clarita Valley Water*  
17 *Agency v. Whittaker Corp.*, 18-06825, 2020 WL 6260015, at \*1 (C.D. Cal. Sept. 16,  
18 2020) (quoting Fed. R. Civ. P. 26(a)(2)(B) advisory committee’s note to 2010  
19 amendment).

### 20 **III. ARGUMENT**

#### 21 **A. The Rebuttal Reports Are Not Based on Sufficient Facts or Data**

22 Expert testimony must be “based on sufficient facts or data.” *Turner v.*  
23 *ThyssenKrupp Materials, N.A.*, 492 F. Supp. 3d 1045, 1048 (C.D. Cal. 2020)  
24 (citation and internal quotation marks omitted). When “there is simply too great an  
25 analytical gap between the data and the opinion proffered,” the expert opinion must  
26 be excluded. *Gen. Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997).

1 Here, exclusion is warranted because Dr. Hagen failed to review sufficient  
2 facts or data prior to authoring her reports; indeed, she reviewed very little at all. Dr.  
3 Hagen’s *Vocational Evaluation and Rebuttal of Plaintiff Employability Assessment*  
4 *re: Esvin Fernando Arredondo Rodriguez* (the “Arredondo Rebuttal Report”) lists  
5 just six documents in the report’s “Documents Reviewed” section. Arredondo  
6 Rebuttal Report at 1. Those documents, all of which were selected and provided to  
7 her by counsel (*see* Hagen Dep. Tr. 18:14-22), are (i) the two reports prepared by  
8 Plaintiffs’ experts on Mr. Arredondo; (ii) a psychological evaluation of Mr.  
9 Arredondo done by psychiatrist Amy Cohen, M.D., in June 2020; (iii) the transcript  
10 of Mr. Arredondo’s deposition; and (iv) Mr. Arredondo’s Responses to Defendant’s  
11 First Set of Interrogatories. Arredondo Rebuttal Report at 1. Similarly, Dr. Hagen’s  
12 *Vocational Evaluation and Rebuttal of Plaintiff Employability Assessment re:*  
13 *Andrea Arredondo Jerez* (the “A.F.A.J. Rebuttal Report” and, together with the  
14 Arredondo Rebuttal Report, the “Rebuttal Reports”) lists just 11 total documents in  
15 the “Documents Reviewed” section. A.F.A.J. Rebuttal Report at 1. Those documents  
16 are (i) four school records, including two academic transcripts and a truancy report;  
17 (ii) the two expert reports produced by Plaintiffs’ counsel relating to A.F.A.J.; (iii)  
18 a psychological evaluation of A.F.A.J. done by Genaro Rodriguez in June 2020; (iv)  
19 the transcript of A.F.A.J.’s deposition; and (v) A.F.A.J.’s treatment records from the  
20 Childrens’ Hospital of Los Angeles. *Id.*

21 Moreover, Dr. Hagen did not draw on her expertise to identify the relevant  
22 pieces of evidence. Instead, Defendant’s counsel—not Dr. Hagen—determined what  
23 materials Dr. Hagen reviewed. *See* Hagen Dep. Tr. 18:14-22. During her deposition,  
24 Dr. Hagen testified that she only reviewed the documents that Defendant’s counsel  
25 sent her. *Id.* She did not request additional documents, and she made no follow-up  
26 requests for more information. *Id.*; *see id.* at 19:09-16. Dr. Hagen thus did not review  
27 the other documents in this case relevant to Plaintiffs’ experiences and injuries,



1 including Plaintiffs' respective sworn testimony that was admitted in their asylum  
2 case, the extensive record of what Defendant did to separated families like the  
3 Arredondos, any pleadings from this case, notes or transcripts of Plaintiffs' various  
4 interviews, or any of the many other factual records produced in discovery.

5 Dr. Hagen also failed to conduct, or rely on, any significant academic research  
6 for her Rebuttal Reports, including any research on the vocational harms that may  
7 arise from a family separation<sup>2</sup> like the one that Plaintiffs experienced or from the  
8 mental conditions that Plaintiffs suffer from, including PTSD. In fact, she merely  
9 assumed that the two plaintiffs did not suffer from PTSD because Defendant's other  
10 proposed expert, Bennett Williamson ("Dr. Williamson"), told her so. Thus, she was  
11 wholly unprepared to make educated assessments about how Plaintiffs' mental  
12 injuries, including PTSD, would impact their earning capacity and vocational  
13 potential. For example, during her deposition, Dr. Hagen could not answer whether  
14 experts in her field had observed a negative correlation between depression or  
15 traumatic stress and earnings capacity. *See* Hagen Dep. Tr. 114:23-115:10; 116:06-  
16 21.

17 Finally, further evidencing her inadequate preparation, despite relying on his  
18 conclusions, Dr. Hagen failed to review the reports of Defendant's own psychologist  
19 expert witness, Dr. Williamson. *See* Arredondo Rebuttal Report at 1; A.F.A.J.  
20 Rebuttal Report at 1. Dr. Hagen stated that she was told that Dr. Williamson's report  
21 had not been written by the time Dr. Hagen needed to submit her own report (even  
22 though the reports were produced on the same date), so she instead had an eight-  
23 minute phone call with Dr. Williamson to hear his opinions regarding both Plaintiffs.

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24  
25 <sup>2</sup> Plaintiffs presented significant evidence showing how numerous entities, including government officials,  
26 members of Congress, and private organizations, explained and warned Defendant about the traumatic harm  
27 family separation causes its victims. *See, e.g., Plaintiffs' Memorandum of Points and Authorities in Support*  
28 *of Motion for Partial Summary Judgment* at 2-3, Dkt. No. 114-1. Dr. Hagen did not review any of this  
evidence.

1 Hagen Dep. Tr. 113:03-04. Dr. Hagen acknowledged during her deposition that Dr.  
2 Williamson's report could contain information that would cause her to change the  
3 conclusions in her report. *Id.* at 113:05-12. Nevertheless, she did not make an  
4 attempt to obtain and read it at any point after it was authored. *Id.* at 22:08-13.

5 Despite failing to review key pieces of evidence, Dr. Hagen made sweeping  
6 statements about what the evidence in the case *purports* to show. For example, in  
7 the Arredondo Rebuttal Report, Dr. Hagen disagrees with Mr. Lieberman's opinion  
8 that Mr. Arredondo's PTSD will prevent Mr. Arredondo from seeking higher-paying  
9 employment, claiming that "[t]here is no evidence of [Mr. Arredondo] being harmed  
10 financially by his experience at the border." Arredondo Rebuttal Report at 5. Not  
11 having made a complete review of "the evidence," however, Dr. Hagen is not  
12 positioned to opine in this manner. Similarly, in the A.F.A.J. Rebuttal Report, Dr.  
13 Hagen purports to opine that A.F.A.J. could "begin Community College with ESL  
14 classes . . . which will improve her future earning capacity," without any reference  
15 to a method or principle to support her assertion. She simply says: "[t]here is no  
16 reason [A.F.A.J.] would not be able to pursue a college education if given  
17 encouragement and guidance." A.F.A.J. Rebuttal Report at 6. These unsupported  
18 generalizations are not proper expert testimony.

19 Dr. Hagen could not have made such statements had she actually reviewed all  
20 of the relevant evidence, especially the evidence pertaining to the impact of the  
21 injuries Plaintiffs sustained due to their forced separation at the border and  
22 subsequent detentions. At a minimum, Dr. Hagen should have reviewed: (i)  
23 Plaintiffs' prior sworn testimony; and (ii) the extensive body of recognized authority  
24 from the field of vocational rehabilitation regarding the relationship between  
25 negative mental conditions, including PTSD, and a person's earning capacity and  
26 vocational potential. Yet Dr. Hagen did not review any of these. Instead, she simply  
27 relied on Defendant's counsel to decide for her what documents she should review

1 and conducted little, if any, independent research. In short, Dr. Hagen did not possess  
2 the knowledge and information needed to justify the broad conclusions she included  
3 in the Rebuttal Reports.

4 **B. The Rebuttal Reports Are Not a Product of Reliable Principles or**  
5 **Methods**

6 1. Dr. Hagen Fails to Show That She Properly Applied Her  
7 Professional Experience or Reliable Principles or Methods to  
8 Reach Her Conclusions

9 To be admissible, the expert’s testimony must be “the product of reliable  
10 principles and methods, and the expert must appl[y] the principles and methods  
11 reliably to the facts of the case.” *Nat’l Fire Prot. Ass’n, Inc. v. UpCodes, Inc.*, 21-  
12 05262, 2023 WL 6194385, at \*1 (C.D. Cal. Sept. 7, 2023) (citation and internal  
13 quotation marks omitted). To ensure reliability, the court must “assess the [expert’s]  
14 reasoning or methodology, using as appropriate such criteria as testability,  
15 publication in peer reviewed literature, and general acceptance.” *Id.* (citation and  
16 internal quotation marks omitted). And where the witness “rel[ies] solely or  
17 primarily on experience, . . . witness must explain how that experience leads to the  
18 conclusion reached, why that experience is a sufficient basis for the opinion, and  
19 how that experience is reliably applied to the facts.” Fed. R. Evid. 702 advisory  
20 committee’s note to 2000 amendment.

21 The Rebuttal Reports simply do not reflect that Dr. Hagen properly applied  
22 her professional experience or reliable principles or methods to reach her  
23 conclusions. Her reports are from the “because I said so” school of expert opinion—  
24 which violates the Federal Rules of Evidence. Prior to writing the Rebuttal Reports,  
25 Dr. Hagen did not review any authorities or literature from her field except for the  
26 *single* study she cites only in the A.F.A.J. Rebuttal Report regarding the relationship  
27 between parental educational levels and child educational outcomes. *See* A.F.A.J.

1 Rebuttal Report at 4; *see also* A.F.A.J. Rebuttal Report, Exhibit 1; Hagen Dep. Tr.  
2 at 19:17-20:01 (Dr. Hagen agreeing with the statement that all the documents she  
3 reviewed are either listed in the “Documents Reviewed” section of the Rebuttal  
4 Reports or attached as exhibits). Accordingly, the Rebuttal Reports generally lack  
5 citations to testable methodology, peer-reviewed studies, or other authoritative  
6 sources showing that Dr. Hagen used generally accepted practices to derive her  
7 conclusions. Instead, her opinions are admittedly off the top of her head: the Rebuttal  
8 Reports are based purely on her review of portions of each Plaintiff’s case file, which  
9 Defendant’s counsel had selected and provided. *See, e.g.*, Hagen Dep. Tr. 62:02-09;  
10 87:07-10; 121:10-25; 126:14-127:03; 133:01-10; 166:23-167:01; 171:13-19.

11 Because Dr. Hagen failed to properly to apply her professional experience or  
12 a reliable method or principle when writing the Rebuttal Reports, the conclusions  
13 therein are unreliable. For example, in the Mr. Arredondo Rebuttal Report, Dr.  
14 Hagen states that Mr. Arredondo’s current earning capacity is at the 25th percentile  
15 of wages for workers in the category of Maintenance and Repair Workers.  
16 Arredondo Rebuttal Report at 5-6. She anecdotally bases this opinion on Mr.  
17 Arredondo’s work history, level of English-speaking ability, and lack of high school  
18 diploma. *Id.* Dr. Hagen does not explain what principle or methodology supports the  
19 finding that those three characteristics justify assessing Mr. Arredondo’s earning  
20 potential at the 25th percentile. She expects to be believed because she said so. She  
21 fails to provide any sources or citations showing that the unidentified reasoning she  
22 used to reach this conclusion is reliable and generally accepted. She does not explain  
23 her exclusion of other relevant factors, including Mr. Arredondo’s extensive  
24 experience in construction, his current skillset, or his strong work ethic. Thus, there  
25 is simply no way of knowing whether Dr. Hagen’s assessment of Mr. Arredondo’s  
26 earning potential has any validity.

1 As another example, in the A.F.A.J. Rebuttal Report, Dr. Hagen states that  
2 Mr. Lieberman’s opinion that “A.F.A.J. will have low earnings due to her experience  
3 at the border . . . ignores other factors that affect her potential future earnings.”  
4 A.F.A.J. Rebuttal Report at 5. The factors Mr. Lieberman allegedly ignored include  
5 A.F.A.J. not yet having any vocational skills and not yet graduating high school. *Id.*  
6 Mr. Lieberman, however, used a specific methodology—the PEEDS-RAPEL  
7 methodology—to form his opinion. PEEDS-RAPEL is a method specifically  
8 designed to evaluate the earnings capacity “where the plaintiff is of a young age and  
9 their academic, work and earnings history may not yet be firmly established.” Mark  
10 Lieberman, *Employability Assessment Andrea Fernanda Arredondo* at 7 (Dec. 22,  
11 2023). Dr. Hagen’s assertion disregards that Mr. Lieberman’s methodology  
12 considers the very factors she identifies as “ignored.” It is almost as if she did not  
13 actually read the Lieberman Report. To the extent her assertion could be construed  
14 as an attack of the PEEDS-RAPEL methodology, Dr. Hagen fails to provide any  
15 sources or citations showing that the factors she identified are relevant to, but  
16 excluded from, the PEEDS-RAPEL methodology or that those factors were not  
17 properly considered in Mr. Lieberman’s application of that methodology. Instead,  
18 she simply states that the factors are relevant and that Mr. Lieberman failed to take  
19 them into account. These naked assertions do not satisfy Federal Rule of Evidence  
20 702.

21 The Rebuttal Reports are replete with unsupported conclusions based on  
22 unexplained methods and unjustified reasoning. Because the reports fail to  
23 demonstrate that their conclusions were properly derived using trustworthy  
24 techniques, the Court should exclude them.

2. Dr. Hagen Did Not Consider All Evidence She Reviewed and, Instead, Only Considered the Evidence Favorable to Defendant's Position

“[C]ourts have consistently excluded expert testimony that ‘cherry-picks’ relevant data.” *EEOC v. Freeman*, 778 F.3d 463, 469 (4th Cir. 2015) (collecting cases). Conclusions based on “rejecting or ignoring the great weight of the evidence that contradicts [the expert’s] conclusion” are inadmissible because such conclusions “do[] not reflect scientific knowledge, [are] not derived by the scientific method, and [are] not ‘good science.’” *See In re Bextra & Celebrex Mktg. Sales Practices & Prod. Liab. Litig.*, 524 F. Supp. 2d 1166, 1176 (N.D. Cal. 2007).

Dr. Hagen’s opinion that Mr. Lieberman should not have treated Plaintiffs as having a cognitive disability is based on impermissible cherry-picking. In the Arredondo Rebuttal Report, Dr. Hagen disagrees “with Mr. Lieberman describing Mr. Arredondo as having a cognitive disability.” Arredondo Rebuttal Report at 5. Dr. Hagen notes that Mr. Lieberman had written that “Mr. Arredondo’s issues due to his PTSD would be consistent with the category of Cognitive Disability,” and she objects to this assessment based solely on the fact that Dr. Williamson told her that “Mr. Arredondo does not meet the criteria for a diagnosis of PTSD nor a cognitive disorder.” *Id.* Similarly, in A.F.A.J.’s Rebuttal Report, Dr. Hagen disagrees with Mr. Lieberman’s treatment of A.F.A.J. as having a cognitive disability because, during their eight-minute conversation, “Dr. Williamson related to me that she does not have a cognitive disorder.” A.F.A.J. Rebuttal Report at 5-6.

However, Dr. Hagen fails to mention or consider that multiple mental health professionals—including Dr. Kristin Samuelson, Dr. Amy Cohen (a Board-certified psychiatrist), and Mr. Genaro Rodriguez (a licensed therapist)—had independently concluded that one or both Plaintiffs displayed symptoms consistent with PTSD. *See* Kristin W. Samuelson, *Forensic Psychological Evaluation of Andrea Fernanda*



1 *Arredondo Jerez* at 22 (Dec. 22, 2023); Kristin W. Samuelson, *Forensic*  
2 *Psychological Evaluation of Fernando Arredondo* at 16 (Dec. 22, 2023); Genaro  
3 Rodriguez, *Psychological Evaluation of Andrea Fernando Arredondo Jerez* at 3  
4 (June 2, 2020); Amy J. Cohen, *Psychological Evaluation of Esvin Fernando*  
5 *Arredondo Rodriguez* at 12 (June 20, 2020).

6 Dr. Hagen was well aware of these other psychologists' conclusions; she  
7 listed their reports in the "Documents Reviewed" sections of the Rebuttal Reports.  
8 Arredondo Rebuttal Report at 1; A.F.A.J. Rebuttal Report at 1. And the conclusions  
9 were clearly relevant to the issue at hand; they relate directly to Mr. Lieberman's  
10 conclusion that Plaintiffs suffered from symptoms of PTSD, which qualify as a  
11 cognitive disability. The Rebuttal Reports nevertheless fail to acknowledge, let alone  
12 justify, the omission of these opposing opinions.

13 In fact, rather than engaging with the fact that multiple medical professionals  
14 had determined that Plaintiffs suffer from symptoms of PTSD, Dr. Hagen instead  
15 obfuscates this fact. Dr. Hagen writes in the Rebuttal Reports that Mr. Lieberman  
16 lacked a valid basis to treat Plaintiffs as having a cognitive disability because no  
17 psychologist or therapist had diagnosed them as such. Arredondo Rebuttal Report at  
18 5; A.F.A.J. Rebuttal Report at 5. She ignores, however, that Mr. Lieberman clearly  
19 stated that the term "cognitive disability" "do[es] not represent any medically  
20 defined definition of disability." Mark Lieberman, *Employability Assessment Esvin*  
21 *Fernando Arredondo Rodriguez* at 17 (Dec. 22, 2023). Instead, the term is defined  
22 in the American Community Survey and means "serious difficulty concentrating,  
23 remembering, or making decisions because of a physical, mental, or emotional  
24 condition." *Id.* And Mr. Lieberman assessed Mr. Arredondo and A.F.A.J. as having  
25 a cognitive disability based on the multiple mental health professionals' conclusions  
26 that Plaintiffs suffered cognitive impairments consistent with PTSD, including  
27 severe difficulties with concentrating. *See* Mark Lieberman, *Employability*

1 *Assessment Esvin Fernando Arredondo Rodriguez* at 12 (Dec. 22, 2023); Mark  
2 Lieberman, *Employability Assessment Andrea Fernanda Arredondo* at 6 (Dec. 22,  
3 2023). Thus, Dr. Hagen’s statement that no psychologist had diagnosed either  
4 Plaintiff with a cognitive disability confuses Mr. Lieberman’s use of the term  
5 “cognitive disability” with a medical diagnosis and wrongly implies that no qualified  
6 persons have found that Plaintiffs suffer from serious cognitive impairments.

7 In short, Dr. Hagen’s selective and argumentative use of the evidence renders  
8 her opinion on Plaintiffs’ cognitive disability inadmissible. Her refusal to engage  
9 with facts unfavorable to Defendant supports that she wrote the Rebuttal Reports to  
10 support a specific, predetermined conclusion—that Plaintiffs’ did not have any  
11 cognitive disabilities—and chose to only present facts supporting that conclusion.  
12 Such cherry-picking produces unreliable opinions and justifies excluding Dr.  
13 Hagen’s testimony on this issue.

#### 14 **IV. CONCLUSION**

15 Dr. Hagen’s reports, opinions, and testimony should be excluded under  
16 Federal Rule of Evidence 702: they are not based on sufficient facts or data, are not  
17 the product of reliable methodologies, and do not reflect the reliable application of  
18 methodology to the facts in issue. We respectfully request that the Court exclude Dr.  
19 Hagen’s reports, opinions, and testimony in their entirety.

20  
21  
22  
23 Dated: March 8, 2024

Respectfully Submitted,  
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**Certificate of Compliance Pursuant to L.R. 11-6/2**

The undersigned, counsel of record for Plaintiffs Esvin Fernando Arredondo Rodriguez and A.F.A.J. certifies that this brief contains 3,589 words, which complies with the word limit of L.R. 11-6.1

Dated: March 6, 2024

By: /s/ Jonghyun Lee  
Jonghyun Lee